

Translation

PATENT COOPERATION TREATY

PCT/EP2003/050772



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference GEBS200259PC	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/050772	International filing date (day/month/year) 31 October 2003 (31.10.2003)	Priority date (day/month/year) 04 November 2002 (04.11.2002)
International Patent Classification (IPC) or national classification and IPC D06M 15/643, 13/463, A61K 7/06, C11D 3/37, D21H 17/59, 17/07, C08L 83/02		
Applicant GE BAYER SILICONES GMBH & CO. KG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.  <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of <u>8</u> sheets.
3. This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 06 April 2004 (06.04.2004)	Date of completion of this report 16 February 2005 (16.02.2005)
Name and mailing address of the IPEA/EP  Facsimile No.	Authorized officer  Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/050772

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-77 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 1-20 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 13 October 2004 (13.10.2004)
- ☐ the drawings:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	11-13, 16	YES
	Claims	1-10, 14, 15, 17-20	NO
Inventive step (IS)	Claims		YES
	Claims	1-20	NO
Industrial applicability (IA)	Claims	1-20	YES
	Claims		NO

### 2. Citations and explanations

1 This report refers to the following document:

D4: EP-A-0 607 796 (GOLDSCHMIDT AG TH) 27 July 1994  
(1994-07-27).

#### 2 INDEPENDENT CLAIM 1

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

Document D4 discloses (cf. **examples**) formulations that contain a nitrogen-free polysiloxane compound (designated as A) and a polyammonium-polysiloxane compound (designated as B). The polysiloxane B contains two units of formula  $-[Q-V^2]-$ , wherein Q is a quadrivalent nitrogen, and  $V^2$  represents the radical designated in D4 as  $R^5$ , together with at least three dimethylsiloxane units of the polysiloxane main chain.

The subject matter of claim 1 is therefore not novel.

3 DEPENDENT CLAIMS 2-15

Dependent claims 2-15 do not contain any features which in combination with the features of any claim to which they refer back meet the PCT requirements for novelty or inventive step.

4 INDEPENDENT CLAIM 16

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 16 does not involve an inventive step within the meaning of PCT Article 33(3).

Document D4, which is taken as the closest prior art, discloses (cf. examples) a method of preparing formulations as per the present claim 1, from which the subject of claim 16 differs in that first components a) and b) are mixed and then the other components are added.

The problem to be solved with the present application can thus be seen as finding an alternative method of preparing formulations according to the present claim 1.

The solution proposed in claim 16 of the present application cannot be considered inventive (PCT Article 33(3)) for the following reasons: to a person skilled in the art it is obvious that the components can be added in any desired sequence, at least if a homogeneous composition is to be produced.

5 INDEPENDENT CLAIMS 17-20

The present application does not meet the requirements of PCT Article 33(1) because the

subject matter of claims 17-20 is not novel within the meaning of PCT Article 33(2).

Document D4 discloses (cf. page 2, lines 1-9 and examples) the use of formulations according to the present claim 1 for cosmetic purposes, for treating fibers, for treating textiles and as softeners.

The subject matter of claims 17-20 is therefore not novel.